

ALBERTO TRAPAGA

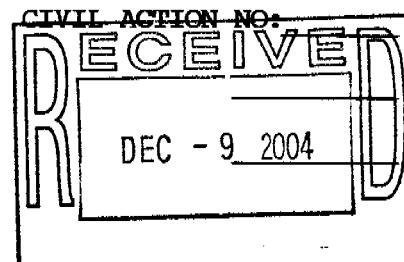
PETITIONER

V.

BRUCE CHADBOURNE, Inteim)
Field Office Director for Detention)
and Removal, Boston Field Office, Bureau)
of Immigration and Customs Enforcement;)
the Bureau of Immigration and Customs)
Enforcement,)
"Superintendent", Robert Murphy of the)
Nemansket Correctional Center, or Aka, 04
M.T.C.)
Commissioner of the Massachusetts Dept. of)
Corrections-Kathleen. M. Dennehy)
DEFENDANT,)

Immigration Court Removal Proceedings:

A-24-792-227



04-12599 VMC
referred to m/s T2 Alexander

referred to me T R Alexander

" PETITION FOR A WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 "

Petitioner, Alberto Trapaga, here by Petitions this Honorable Court for writ of habeas corpus to remedy his Unlawful detention, and to enjoin his Continued Unlawful detention by the Respondents.

In support of this petition and complaint for injunctive relief, the Petitioner ALLEGES as Follows:

- 1) Petitioner, Alberto Trapaga, has been a Lawful Resident of the United States up until his mess up with the law and was Ordered Deported by the Federal Immigration Judge and that was on or abouts within the Year 1986 I was Relieved of my Parole by INS today is Called ICE on Deportation and has not been taken in to Custody by the U.S. Marshals Deptment. I have been Illegally Committed to the Nemansket Correctional Center which still has a name out side Called Massachusetts Treatment Center, this is Still a Prison. The Petitioner has been illegally Committed to the Treatment Center by a Superior Court Judge and he said that he has the right to Overrule a Federal Court Immigration Judge.

- 2) The Respondant, Alberto Gonzales is the Attorney General of the United States and is responsible for the Administration of I. C. E. and the Implementation and enforcement of the Immigration Laws. As such, he is the Ultimate Legal Custodian of the Petitioner, Alberto Trapaga.
- 3) The Respondent, Bruce Chadbourne is the Interim Field Office Director of Detention and Removal, Boston Field Office, Bureau of Immigration and Customs Enforcement, Department of Homeland Security.
as such, he is the local I.C.E. Official who has or is suppose to have immediate Custody of the Petitioner, Alberto Trapaga.
- 4) The Respondents Department of Homeland Security is the Agency Charged with implementing and enforcing the Immigration Laws.
- 5) The Respondent, Kathleen. M. Dennehy is Acting Commissioner, of the Massachusetts Department of Corrections, Because I.C.E. Contracts with state prisons such as the Nemansket Correctional Center, a Prison under Deguise of a Treatment Center, thats in Bridgewater, Mass. to house Sexual Dangerous Persons, and Immigration Detainees or Commitments such as the Petitioner, She has immediate Custody of the Petitioner, Alberto Trapaga and Not the U.S. Marshals Service.

CUSTODY

- 6) The Petitioner, is Being Detained at the Nemansket Correctional center-a-prison, in Bridgewater, Mass. I.C.E. has Supposiblely Contracted with the Nemansket Correctional Center to House immigration detainees such as Alberto Trapaga the Petitioner is suppose to be under the direct Control of the Respondent **Bruce Chadbourne Director of Immigration Removal**, and his Agents.

JURISDICTION

- 7) This action arises under the Constitution of the United States, the Immigration and Nationality Act (" I N A "), 8 U. S. C. § 1101 et. Seq. as Amended by the illegal Immigration Reform and Immigrant Responsibility Act of 1996 (" I I R I R A "), Pub L. NO: 104-208, 110 Stat. 1570, and the Administrative Procedure Act (" A P A "), 5 U. S. C. § 701 et. Seq. This Court has Jurisdiction Under **28 U. S. C. § 2241, Article I § 9, cl. 2 of the United States Constitution** (" Suspension Clause "), and **28 U. S. C. § 1331**, as the Petitioner is presently in Custody under Color Code of the Authority of the United States, and such Custody is in Violation of the Constitution, Laws, or Treaties of the United States.

See: **ZADVYDAS V. DAVIS**, 533 U. S. 678, 121 S. Ct. 2491 (2001).

EXHAUSTION OF REMEDIES

- 8) The Petitioner, has exhausted his Administrative remedies to the extent required by Law, and his Only remedy is by way of this Judicial Action. After the Supreme Judicial Court made a Decision in **Zadvydas**, the department of Justice issued **regulations governing the Custody of Aliens Ordered Removed**. See: 8C. F. R. § 241.4 This Petitioner has been ordered Deported on 1986 and Not taken into Custody by the Marshals Department on his Wrap-up Date March.9,2003 .

VENUE

- 9) **Venue** lies in the District of Massachusetts or words known as the Commonwealth, Because Alberto Trapaga is Currently being held Captive at the Nemansket Correctional Center. **Venue** In the Commonwealth or District of Massachusetts is **Improper** because the Petitioner in Not in the Coustody of the Respondent **Bruce Chadbourne, Interim Field Office Director of this District**, which encompasses Massachusetts. **28 U. S. C. § 1391.**

- 10) No Statutory Exhaustion requirements apply to Petitioner's claim of Unlawful detention in a Prison setting after many numerous Letters have been written to the Respondent's.

STATEMENT OF FACTS

- 11) The Petitioner, Alberto Trapaga, was Born in Cuba on I came to the U.S. on , looking for a better life, and My being a **Mariel Cuban** made this more difficult, the Petitioner Lived in Lynn, (before arrested) with my Girlfriend, **Edra Grtiz**, and I have friends and Relatives Two Family's in New York and in Flordia, all of them are U.S. American Citizens.

I had a Passport, but the Crime I committed, broke that Passport Contract of Immigration, I had been Accepted by U.S. Customs Under Humanitarian Reasons, I Only lived well in Cuba.

- 12) On sept.14,1982 I was Convicted of A & B and Attempted Rape. On 1986 I was Relieved of my Parole and Ordered Deported for Committing a Feloney.

I was ordered Deported to Cuba by the Immigration Court. the Court was in New York, 201-Varick St S.P.C. Room 651 New York NY. 10014

I Applyed for Asilum and the Appeals Court said Denied en Waived that was in the Year Dec.28,1987, I was Cleared by Mental Helth of not being dangerous to the Public Safety and I.N.S. released me on Parole in 1991. In 1992 I violated my parole by committing a Robbery, my deportation was put into force at the Very Moment, I am suppose to be back in custody and that was on 3/9/2003 that my time wrap-up but this place kept telling the Marshal's service, and INS or now I.C.E.

if you want to check my court records here is my court docket entry sheet No: ESCV2003-00345, out of Salem Superior Court. My suppose to be Lawyer is stand was Arnold P. Cohen -Phone No: 617~367-6298 this man did exactly nothing in my behalf.

On December 5, 2003 the court went ahead and committed me, After I told them over, and Over, and Over again, that I am in Deportation Status, the Marshal's are suppose to pick me up. I have been held Captive Since my wrap-up date 3/9/2003 up to the date you are reading now, I have tryed to explain to many different people that are incharge, But without any results I am left No other Choice, but to Place this in your hands, Because I have already been fouled by the Superior Court System, and D.O.C. and I don't TRUST to many people in the United State anymore !..

As of 11/8/2004 I've been held Captive by Law's that this Country has DREAMED up just to keep people from getting out to their Family's, The Almighty GOD of Heaven and earth meant for people to have dominion that is to be free, if Only man will give the Creator the Right to Correct what has been made wrong then he wouldn't be so dam mad at this Country for taking the Almighty job and trying to do what he Only Knows how to do, No one can Know what's in man's heart it's Only the Creator of Life that Know these thing's.

He is the Judge of all, of every breathing creature that lives on this earth including MAN.

- 13) On 3/9/2003, ICE was suppose to have taken Alberto Trapaga into custody to await his deportation to Cuba He has been in Nemansket Correctional Center, or Aka, Mass Treatment Center with a FInnal order since then, for a period of One Year and Nine Months.
- 14) In the 21 Months that have passed since the Petitioner's last Custody review, ICE has not Notified Alberto Trapaga of and progress in his repatriation.
- 15) To the Petitioner's Knowledge, the government of Cuba has not issued travel documents for the Petitioner, Indeed, neither ICE nor the Cuban Country have provided any indication that Cuba would accept Petitioner in the Reasonably Foreseeable Future.

16) ICE has never asserted that the Petitioner has failed to Cooperate in his Deportation. To the Contrary, the Petitioner on his initiative, and through the help of friends and family, has tried to expedite his repatriation to Cuba and release from Custody.

ICE has offered no evidence to suggest that repatriation in the Petitioner's individual case is reasonably foreseeable now.

LEGAL FRAMEWORK FOR RELIEF SOUGHT

17) In Zadvydas, [the Supreme Court held that U.S.C. § 1231 (a)(6), when " read in light of the Constitution's demands, limited an Alien's post-removal-period detention to a period reasonably necessary to bring about the Alien's removal from the United States "] ***Id.***, 121 S. Ct. at 2498. A " habeas court must [first] ask whether the detention in question exceeds a period reasonably necessary to secure removal." ***Id.* at 2504**. If the individual's removal is not reasonably foreseeable, " the court should hold continued detention unreasonable and no longer authorized by statute ". ***Id.***

18) In determining the length of a reasonable removal period the court adopted a presumptively reasonable period of detention " of Six months. ***Id*** at 2504. After six months, the government bears the burden of disproving an Alien's " good Reason to believe that there is no significant likelihood of removal in the reasonably Foreseeable Future." See ***Zhou v. Farquharson***, 2001 U.S. Dist. LEXIS 18239, *2-*3 (D. Mass. Oct. 19, 2001) (quoting and summarizing ***Zadvydas***.) Moreover, " [f]or detention to remain reasonable, as the period of prior post-removal confinement grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink " ***Zadvydas***, 121 S. Ct. at 2505. ICE's Aministrative regulations also recongnize that the HQPDU has a six-month period for determining whether there is a significant likelihood of an Alien's removal in the reasonably foreseeable future. See 8 C. F. R. § 241.4 (k) (2) (ii).

19) Evidence showing successful repatriation of other persons to the country at issue is not sufficient to meet the

government's burden to establish that an alien petitioner will be deported within the reasonably foreseeable future. See **THOMPSON, V. INS**, 2002 U.S. Dist. LEXIS 23936 (E.D. La. September.16,2002) (government failed to show that alien's deportation to Guyana was reasonably foreseeable where the government offered historical statistics of repatriation to Guyana, but failed to show any response from Guyana on the application for travel documents that INS and the petitioner had requested; **Kacanic V. Elwood**, 2001 U.S. Dist. LEXIS 21848 at *14 (E.D. Penn. Nov.8,2002) Government reliance on data concerning removals of other aliens to Yugoslavia did not satisfy Zadvydas because government failed to give information about the number of aliens that were Denied Travel papers and did not provide individualized information about the removed aliens that would allow " a meaningful comparison " of the removed aliens to the petitioner; **Ablahad V. Ashcroft**, 2002 U. S. Dist. LEXIS 17405 at *4 (N.D. ILL September.6,2002) (evidence the aliens have been deported to petitioner's country is not sufficient to carry the government's burden under Zadvydas). Rather for the Government to meet its burden of showing that an alien's repatriation is reasonably foreseeable, it must provide some meaningful evidence particular to the individual petitioner's case.

Compare **Thompson, Kacanic, and Ablahad with Khan V. Fasano**, 194 F. Supp. 2d. 1134 (S.D. Cal. 2001) (eight month detention following final order was not unreasonable where INS requested travel documents for petitioner, Pakistani Consulate indicated that petitioner's travel document application had been forwarded to the appropriate ministry, INS had successfully repatriated 476 pakistani nationals during 2001, suggesting that there were no " Institutional barriers " to successful repatriation, and a meeting was scheduled with Pakistani government to discuss petitioner's case).

- 20) An alien who has been detained beyond the presumptive Six months should be released where the government is unable to present documented confirmation that the foreign government at issue will agree to accept the particular individual in Question. See **Agbada v. John Ashcroft**, 2002 U.S. Dist. LEXIS 15797 (D. Mass. August.22,2002) (court " will likely grant " habeas Petition after fourteen months If ICE " is unable to present document confirmation that Nigerian government has agreed to [petitioner] repatriation "); Zhou, 2001 U.S. Dist. LEXIS 18239 (ordering that the writ of habeas corpus issue within 60 days, given petitioner's 13-month detention and the INS's inability to assure the court that the paperwork from China was on its way); **Abdu v. Ashcroft**, 2002 U.S. Dist. LEXIS 19050 at * 7 (W.D. WASH. February.28,2002) Government's failure to offer specific information regarding how or when it expected to obtain the necessary documentation or cooperation from the foreign government indicated that there was no significant likelihood of petitioner's removal in the reasonably foreseeable future); Kacanic, 2001 U.S. Dist. LEXIS 21848 (where alien had been detained for One Year, lack of a definitive answer from foreign embassy as to issuance of travel documents-or any indication that a definitive answer was likely--showed that removal was not reasonably foreseeable); Mohamed V. Ashcroft, 2002 U.S. Dist. LEXIS 16179 at *7 (W.D. Wash. April. 15,2002) (granting writ of habeas where lack of definite answer from the foreign consulate indicated that no removal was likely in the reasonably foreseeable future).

CLAIMS FOR RELIEFCOUNT ONESTATUTORY VIOLATION

- 21) Petitioner re-alleges and incorporates by reference Paragraphs 1 through 20 above.
- 22) **Petitioner's** continued detention by the Respondant's violates INA § 241 (a) (6), as interpreted in Zadvydas. Petitioner's six-month presumptively reasonable period for continued removal efforts passed One year 9 Months Ago. For the Reasons outlined above in Paragraphs 1 through 20, Petitioner's removal to Cuba is not reasonably foreseeable.

The Supreme Judicial Court held in Zadvydas that the Continued detention of someone after six months where deportation is not reasonably foreseeable is unreasonable and in Violation of INA § 241.

COUNT TWOSUBSTANTIVE DUE PROCESS VIOLATION

- 23) petitioner re-alleges and incorporates by reference Paragraphs 1 through 22 above.
- 24) **Petitioner's** Continued detention violates his right to substantive due process by depriving him of his liberty interest to be free from bodily restraint. (The due process Clause requires that deprivation of petitioner's liberty be narrowly tailored to serve a Compelling government interest to be free from bodily restraint.

While the Respondents would have a compelling government interest in detaining the petitioner in order to effect his deportation, that interest does not exist if Alberto Trapaga cannot be deported. The Supreme Court in Zadvydas thus interpreted INA § 241 to allow continued detention only for a Period reasonably necessary to serve the alien's removal because any reading would go beyond the government's

articulated interest--to effect the alien's removal.

COUNT THREE

PROCEDURAL DUE PROCESS VIOLATION

- 25) Petitioner re-alleges and incorporates by reference paragraphs 1 through 24 above.
- 26) **Under** the due process Clause of the United States Constitution, an alien is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained. The Petitioner in this case has been denied that opportunity as there is no Administrative mechanism in Place for the Petitioner to demand a decision, ensure that a decision will ever be made, or appeal a custody decision that violates Zadvydas.

PRAYER FOR RELIEF

WHEREFORE, the petitioner prays that this Court grant the following relief:

- 1) Assume Jurisdiction over this Matter;
- 2) Grant petitioner a writ of habeas corpus directing the respondents to immediately release the petitioner from custody;
- 3) Order Respondents to refain from transferring the petitioner out of the juisdicition of ICE Boston District during the pendency of these proceedings and while the petitioner remains at said residents.
- 4) **Grant the petitioner relief under these Restrictions:**
 - 1). Deliberate Indifference
 - 2). Negligence
 - 3). Mental Crulty in the Highest Degree
 - 4). Inproper Overcrowding of cells
 - 5). Staff is Ignoret of the Petitioners needs within the Prison system.

MASSACHUSETTS SIGNATURE WITNESSING

Gov. Exec. Ord. #455 (03-13), §5(f)

Commonwealth of Massachusetts

County of Plymouth

} SS.

On this the 1 day of OCT, 2009, before me,

Day

Month

Year

MANUEL JAMES BOTELHO, the undersigned Notary Public,

Name of Notary Public

Personally appeared Alberto Trappaglia,

Name(s) of Signer(s)

Proved to me through satisfactory evidence of identity, which was/were

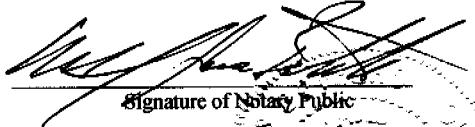
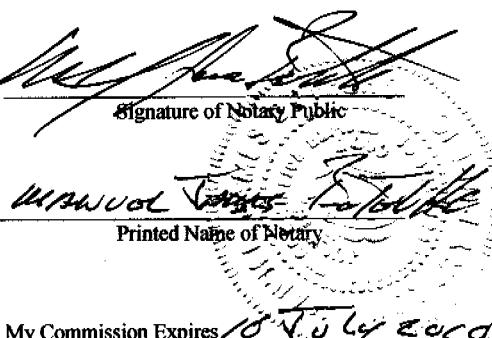
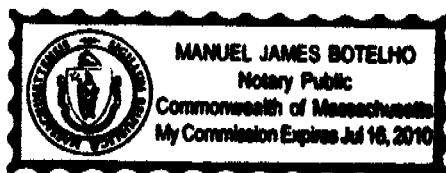
Trappaglia I.D. # N82779

Description of Evidence of Identity

To be the person(s) whose name(s)

Was/were signed on the preceding or

Attached document in my presence.


Signature of Notary Public
Printed Name of NotaryMy Commission Expires 18 July 2010

Place Notary Seal and/or Any Stamp Above

OPTIONAL

Although the information in this section is not required by law it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Right Thumbprint
Of Signer

Top of thumb here

- 6). Injunctive relief
- 7). Statutory limitations
- 8). Substantive due process Limitations
- 9) Procedural Due Process Limitations

All Violations are in the sum of Forty-five Million.

I affirm, Under penalty of Perjury, that the forgoing is True and Correct. This Petitioner Respectfully Submits this Writ of Habeas Corpus before the Court this Day 2 and Month Dec and year 2009

Sincerely & Respectfully Submitted,

x Alberto Trapaga

Alberto Trapaga. Pro-Se Litigent.

Dated 12/2/09



YCC - Referred
U.S. Department of
Executive Office for Immigration Review
Office of the Immigration Judge

92-0006-109-

201 VARICK STREET (S.P.C.), ROOM 651
NEW YORK, NEW YORK 10014

NAME : ALBERTO ANTONIO TRAPAGA PACHECO
CITIZEN OF : CUBA
NATIVE OF : CUBA
FILE # : A 24 792 227

(DATE) DECEMBER 30, 1986

CHIEF, ASYLUM DIVISION
BUREAU OF HUMAN RIGHTS AND
HUMANITARIAN AFFAIRS
UNITED STATES DEPARTMENT OF STATE
2201 "C" STREET, N.W.
WASHINGTON, D.C. 20520

Dear Sir:

Pursuant to 8 C.F.R. 208.10, there is enclosed for your views a copy of an Application for Asylum on Form I-589 and attachments relating to the above-named subject. He/she asserts that he/she will be persecuted because of his/her political opinion if returned to CUBA. Neither a determination of the applicant's credibility nor an evaluation of his/her claim has been made.

A hearing on this application has been scheduled for JANUARY 28, 1987. Your response prior to this date would be most helpful to the Immigration Judge in arriving at a decision in this case.

PLEASE NOTE THAT SUBJECT IS BEING DETAINED AT GOVERNMENT EXPENSE

Sincerely,

Pierre G. Bonnifield
IMMIGRATION COURT CLERK

Enclosures

**Cover Sheet -- SERVICE OF DEPARTMENT OF JUSTICE REVIEW PANEL'S
FINAL DECISION**

Name: Alberto Trapaga-Pacheco

Alien No.: A24 792 227

BOP File No.: 03846-131

Address: Federal Correctional Institution Englewood
9595 West Quincy
Littleton, CO 80123

Name of Attorney/Representative: Gary Leshaw Esq.

Address: Atlanta Legal Aid Society
340 W. Ponce de Leon Avenue
Decatur, GA 30030

L00127956E



U.S. Department of Justice

Washington, D.C. 20530

September 20, 1988

Tony Belaski, Warden
 Federal Correctional Institution
 (Englewood)
 9595 West Quincy
 Littleton, CO 80123

Re: TRAPAGA-PACHECO, Alberto, A24 792 227

Enclosed are copies of the following documents for the subject individual:

- o "Notice of Intent to Review INS Recommendation (Parole)" - English and Spanish
- o "DOJ Parole Questionnaire" - English and Spanish
- o Certificate of Service
- o Complete set of alien subfiles, including Files Checklist

1. Please serve the alien with both the English and Spanish versions of the "Notice of Intent to Review INS Recommendation (Parole)" and the "DOJ Parole Questionnaire."

2. Complete the Certificate of Service and mail it back to the Mariel Document Center:

Mariel Document Center
 P.O. Box 50182
 F Street Station
 Washington, D.C. 20004-0182

Retain a copy of the Certificate of Service and place it in the A-Files already in your possession.

3. Files must be made available to the alien or his representative for review. The alien must be notified that the file is available for review immediately upon receipt of this letter.

326661607

CERTIFICATE OF SERVICE: COUNSEL/REPRESENTATIVE
PAROLE - DOJ FINAL DECISION

I certify that on this 30 day of November 1989, I telephonically contacted the counsel/representative of record for detainee Alberto Trapaga-Pacheco, A24 792 227. I advised counsel/representative that the DOJ final parole decision was served this date on his client, and what the decision is. I then advised counsel/representative that I am forwarding copies, English and Spanish, of the DOJ decision to him this date by regular mail.

Counsel/Representative copies of the DOJ decision were mailed to:

Gary Leshaw, Esq.
Atlanta Legal Aid Society
340 W. Ponce de Leon Avenue
Decatur, GA 30030

Impersonal


Signature-Executing Officer

Douglas S. Wood
Title-Executing Officer

COPIES OF THIS EXECUTED CERTIFICATE TO:

1. Douglas S. Wood, Associate Director
Departmental Cuban Review Program
2. Director, Cuban Review Plan-CODDP
3. Administrative record ("A" File)

(Item #C & D-Instructions)

Cover Sheet -- SERVICE OF DEPARTMENT OF JUSTICE REVIEW PANEL'S FINAL DECISION

Name: Alberto Trapaga-Pacheco

Alien No.: A24 792 227

BOP File No.: 03846-131

Address: Federal Correctional Institution Englewood
9595 West Quincy
Littleton, CO 80123

Name of Attorney/Representative: Gary Leshaw Esq.

Address: Atlanta Legal Aid Society
340 W. Ponce de Leon Avenue
Decatur, GA 30030

PANEL PERCEPTIONS AND RECOMMENDATIONS *Partial b7c*

THE PANEL FOUND THE DETAINEE XXX CREDIBLE NOT CREDIBLE
BECAUSE: He openly and freely discussed criminal past and showed remorse for his actions. Subject appeared honest and above bored during interview which was conducted in a combination of English and Spanish.

THE PANEL WAS UNABLE TO CONCLUDE FROM THIS REVIEW THAT THE DETAINEE IS: (CHECK ALL APPROPRIATE BOXES BELOW; DO NOT MARK ANY BOXES BELOW IF YOU ARE RECOMMENDING RELEASE ON PAROLE.)

- PRESENTLY NON-VIOLENT.
- LIKELY TO REMAIN NON-VIOLENT.
- NOT LIKELY TO POSE A THREAT TO THE COMMUNITY FOLLOWING HIS RELEASE.
- NOT LIKELY TO VIOLATE THE CONDITIONS OF HIS PAROLE

JUSTIFICATION OF PANEL RECOMMENDATION

Subject account of criminal acts appears reasonable. Although these were serious crimes for which he received stiff sentence subject appears non-violent and remorseful for his past actions. Subject has a good record while in INS custody since 8/86. With the exception of the 4 incidents in Englewood. (This panel has noticed that several detainees received "shots" in Englewood, but demonstrated exemplary behavior in other BOP facilities). Subject has family support from USC cousins and has a recent job offer. Mental health evaluations dated 8/25/87 and 5/24/90 states that subject is not likely to be a danger to the public if released. Subject has no history of mental illness. This panel believes that subject has learned his lesson, will stay away from drugs and can function if released. It is recommended that he be released to sponsor cousins in New York.

PANEL MEMBER #1

DATE: 11-8-90

CIRCLE ONE:

RELEASE/PAROLE

DETAIN

PANEL MEMBER #2

DATE: 11-8-90

CIRCLE ONE:

RELEASE/PAROLE

DETAIN

* * * * *

POTENTIAL SPONSOR INFORMATION

Job offer-Gilberto Gil 270 Riverdale Ave.. Yonkers NY 10701-914-375-0202
Cousins-Nivardo and Raquel Cabrero, USC, 137 Hawthorne Ave. Yonkers NY 10701
Tel. # 914-476-6532
Barbarito and Gladys Cabrero, USC, 85 Riverdale Ave. Yonkers NY 10701
Tel. # 914-423-1062

ATTACHMENTS, IF ANY

**U. S. Department of Justice
Immigration and Naturalization Service**

**Notice of Direct Family Placement by INS
Colocación Directa con la Familia por INS**

To: Alberto TRAPAGA-Pacheco
c/o Nivardo Cabero
137 Hawthorne Ave., #1
Yonkers, NY 10701

A24 792 227

BOP# 03846-13

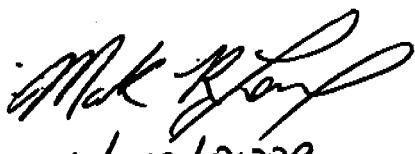
FEB 26 1991

Notice of Direct Family Placement by INS

You have been approved for release to your family by the Associate Commissioner for Enforcement, pursuant to the Cuban Review Plan. You are authorized parole for one year from the date of your release. You must report to the nearest Immigration and Naturalization Service office at the end of your one year to obtain an extension of your parole.

Your parole is subject to revocation by this Service if your conduct indicates that parole would no longer be appropriate.

Sincerely,



Mark R. Long
D.O./LGS/DIDOP

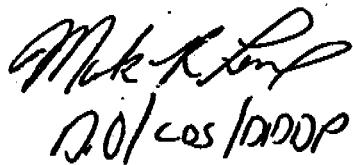
Deportation Liaison Officer
for Associate Commissioner, Enforcement
Immigration and Naturalization Service

Colocación Directa con la Familia por INS

Usted ha sido aprobado para ser puesto en libertad condicional con su familia por el Sub-Comisionado para el Cumplimiento de las Leyes de Inmigración, en conformidad con el Plan de Revisión para Cubanos Detenidos. A Usted se lo autoriza su libertad condicional por el periodo de un año a partir de la fecha de su salida. Usted debe presentarse a la oficina más cercana del Servicio de Inmigración a la conclusión de dicho periodo de un año para obtener una extensión de su libertad condicional.

Su libertad condicional está sujeta a ser revocada por este Servicio si su conducta indica que su libertad no sería apropiada.

Sinceramente,



Mark R. Long
D.O./LGS/DIDOP

Oficial de Intercomunicación
por el Sub-Comisionado para el Cumplimiento de las
Leyes de Servicio de Inmigración y Naturalización

Notice of Releaseability

Name: Trapaga-Pacheco, Alberto

Date of Birth: 12/01/54

INS A Number: A. 24 792 227

BOP Number: 03846-131

Institution: Federal Penitentiary Lompoc, CA.

The panel has determined that you are releasable under the criteria established in the Cuban Review Plan. Consequently, efforts to find a suitable sponsorship or placement for you shall continue.

It should be clearly understood that you will not be released from custody until a suitable sponsorship or placement has been arranged for you. If you have any information which could assist in obtaining a suitable sponsorship or placement, you should bring it to the attention of the official from the Community Relations Service.

Your release from custody is also conditioned upon your maintaining proper behavior while sponsorship and placement efforts for you are being undertaken. Failure to maintain good behavior could result in your continued detention.

Signature: J.C. Higgins

Served/
Delivered: Kenneth W. Coffey, DPOF

Date: DEC 19 2004

NOTICE OF ENTRY OF APPEARANCE AS ATTORNEY OR REPRESENTATIVE

In re:	DATE
	FILE No.

I hereby enter my appearance as attorney for (or representative of), and at the request of, the following named person(s):

NAME Alberto Trapaga Pacheco	<input type="checkbox"/> Petitioner	<input type="checkbox"/> Applicant		
ADDRESS (Apartment No.)	(Number & Street)	(City)	(State)	(ZIP Code)
<input type="checkbox"/> Beneficiary				
NAME	<input type="checkbox"/> Petitioner	<input type="checkbox"/> Applicant		
ADDRESS (Apartment No.)	(Number & Street)	(City)	(State)	(ZIP Code)
<input type="checkbox"/> Beneficiary				

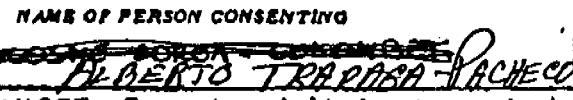
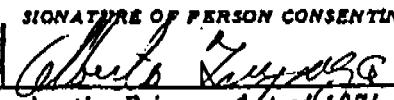
Check Applicable Item(s) below:

1. I am an attorney and a member in good standing of the bar of the Supreme Court of the United States or of the highest court of the following State, territory, insular possession, or District of Columbia
ROBERT M. SANGER - California and U.S. Supreme Courts
(Name of Court)
 court or administrative agency order suspending, enjoining, restraining, disbarring, or otherwise restricting me in practicing law.
2. I am an accredited representative of the following named religious, charitable, social service, or similar organization established in the United States and which is so recognized by the Board:
3. I am associated with ROBERT M. SANGER, the attorney of record who previously filed a notice of appearance in this case and my appearance is at his request. (If you check this item, also check item 1 or 2 whichever is appropriate.)
4. Others (Explain fully.)

SIGNATURE  Robert M. Sanger	COMPLETE ADDRESS 1616 Chapala Street Santa Barbara, CA 93101
NAME (Type or Print) ROBERT M. SANGER - CATHGRINE MCKINNEY	TELEPHONE NUMBER (805) 569-1452

PURSUANT TO THE PRIVACY ACT OF 1974, I HEREBY CONSENT TO THE DISCLOSURE TO THE FOLLOWING NAMED ATTORNEY OR REPRESENTATIVE OF ANY RECORD PERTAINING TO ME WHICH APPEARS IN ANY IMMIGRATION AND NATURALIZATION SERVICE SYSTEM OF RECORDS: ROBERT M. SANGER - CATHGRINE MCKINNEY
(Name of Attorney or Representative)

THE ABOVE CONSENT TO DISCLOSE IS IN CONNECTION WITH THE FOLLOWING MATTER:

NAME OF PERSON CONSENTING  ALBERTO TRAPAGA-PACHECO	SIGNATURE OF PERSON CONSENTING 	DATE
(NOTE: Execution of this box is required under the Privacy Act of 1974 where the person being represented is a citizen of the United States or an alien lawfully admitted for permanent residence.)		

-1-

Alberto Trapaga
Massachusetts Treatment Center
30 Administration Road
Bridgewater, Ma. 02324

Department of Homeland Security
BICE, Detention & Removal
JFK Federal Builing-17th Floor
15 New Sudbury Street
Boston, Ma. 02203

Re: URGENT STATUS REVIEW FOR DEPORTATION
CASE NO: # A-24-792-227

Dear Madam/Sir,

April 2, 2004

On September 11, 1982, I was arrested for a Felony. In September 1983, I was sentenced to a 20 year term at Concord State Prison. (I received Two years to serve on said sentence with 18 years suspended).

In August 1986, I was released on parole and held on a I.N.S. Warrant for Deportation.

On December 30, 1986, I filed a Motion for Asylum, which was denied on January 28, 1987.

On August 25, 1987, Mental Health decided I was not a Danger to Public Safety and the I.N.S. released me on Parole in February, 1991.

In 1992 I violated my Parole by committing Robbery. My deportation order is still in effect. I am supposed to be in the I.N.S. Custody for violating my Parole by I.N.S. I am awaiting for Deportation to Cuba, under those actions in that case, but instead returned to a Massachusetts State Penitentiary to complete or serve out my sentence. That sentence Ended on March 9, 2003.

-2-

Now, after that sentence was completed, I was Petitioned for Civil Commitment under M.G.L. c.123a., as a (Sexually Dangerous Person).

On December 5,2003 the court determined that I was a Sexually Dangerous Person, and I was Civilly Committed for One Day to Life at the Massachusetts Treatment Center within Bridgewater, under Docket No: ESCV-2003-0345.

According to Immigration Laws of deportation and the United States code Services,
Title 8 § 1228 c. 3 (iii) and § 1252

No, Judiciary System shall have jurisdiction to review any final order of removal against an alien who is removable by reason of having committed a criminal offense. And upon execution by Defendant of a valid waiver of the right to appeal, the order of removal shall become final and shall be executed at the end of the prison term in accordance with the terms of the order.

At this time the Salem Superior Court of Essex County has ignored the Federal Immigration Rules or Orders to deport me back to my homeland CUBA, or turn me over to the Custody of Immigration.

THEREFORE, I respectfully request that my deportation status be re-opened for review and for the immediate return to Cuba, for the reasons indicated above. If, I need to re-open or file any documents to have this situation reevaluated or reviewed, Please send me all the necessary paperwork to re-open this claim.

I'll, take this time to thank you for all assistance in this important matter. I am looking forward in hearing from your Agency.

XC.

File

Respectfully Submitted,

Alberto Trapaga

Alberto Trapaga
Massachusetts Treatment Center
30 Administration Road
Bridgewater, Ma. 02324

CERTIFICATE OF SERVICE

I certify that I have today mailed
a copy of this letter to the District
Counsel of Immigration & Naturalization
Service, JFK Federal Building, Room 425,
Govt. Ctr., Boston, Ma. 02203. by mail,
postage paid.

DATE: 4-20-04 . Alberto Triopaga

Alberto Trapaga
30 Administration Rd.
Bridgewater, MA 02324-3230

Mr. Bruce Chadbourne
Immigration & Naturalization Service
Department of Homeland Security
JFK Federal Building - 17th Floor
Boston, Massachusetts 02109

RE: ORDER OF DEPORTATION/FAILURE TO EXECUTE
Case No. A-24-792-227

Dear Sir:

Please find a copy of many documents that are very important for your review, and my situation being newly confined to the Massachusetts Treatment Center. I am civilly committed for a period of one day to natural life. The State of Massachusetts has no authority nor jurisdiction to civilly commit me to the Treatment Center, I was released from MCI-Concord, and paroled by the INS, the state of Massachusetts, once my prison term expired for the criminal acts had an obligation to see that I was immediately turned over to the INS, as the United States District Court did impose and issue an order of ["deportation"], clearly by Federal law, the jurisdiction lays with the INS and not the State of Massachusetts. Surely, the state of Massachusetts has exceeded its authority.

It is clear, that the Salem Superior Court overruled the United States District Court's order to deport me back to cuba, the Salem Superior Court Judge has surely exceeded his authority of the already issued order of deportation which takes a superior standard as to who hold the jurisdiction. Also, I might reiterate my earlier statement, the INS had the parole authority and not the state, as if I had acted in a violent manner, it would be the INS that would be liable and not the Massachusetts state Parole Board. See Kent v. Commonwealth, 437 Mass. 312, 771, N.E.2d 770, 777 (Mass.2002). Not only has the INS ignored the deportation order, the Massachusetts Department of Correction has ignored it as well, which gives rise to whom acted in concert with whom to ignore and violate the original order.

The language of the deportation order is both clear and unambiguous, "once the term of imprisonment was fully served" the INS had an obligation to execute the order of deportation issued by the U.S. District Judge. The question is not who failed their obligation the INS or the Department of Correction, the question should be why was the order not executed, "like it or not, the court has the final word" and surely the order to deport myself back to cuba by the Judge in the United States District Court was "the final word."

It clearly appears and smells of some sort of National reprisal for the plain and simple fact that I am of Cuban decent, and the United States does not have influence in Cuba and or its government or people.

This correspondence should also be considered to be a letter of intent to move for damages and false imprisonment once released to the custody of the INS for deportation back to Cuba. The order was clear, and it is perfectly clear that the order has been [violated], and it is also perfectly clear by established federal law that the INS has the jurisdiction and once the term of imprisonment was served the order should have been executed immediately.

At this point, the Commonwealth of Massachusetts has exceeded its authority by holding me [hostage] a Cuban citizen whom was so ordered to be deported. 1>

Thanking you kindly, I anxiously await your return with any and all investigational documents, I remain:

Sincerely,

Alberto Trapaga

AT/rjd
Enclosures;
file

xc: Immigration & Naturalization Service Washington D.C.

Senator Edward M. Kennedy (D.Mass)

Senator John Kerry, (D.Mass.)

Antonio Mederios (Cuban Immigrant) (Also awaiting Deportation)

Antonio Mederios 4-27-04

^{1>} It also appears that by the State of Massachusetts violating the order of deportation that the State use's foreign immigrants as hostages in its prisons to make money.

*Office of Detention and Removal
Operations*

**U.S. Department of Homeland
Security**
425 I Street, NW
Washington, DC 20536



**U.S. Immigration
and Customs
Enforcement**

June 8, 2004

Mr. Alberto Trapaga
30 Administration Road
Bridgewater, MA 02324

Dear Mr. Trapaga:

This is in reply to your correspondence dated December 16, 2003. In your letter, you requested information regarding a waiver of deportation. We understand the concern that has caused you to write and we appreciate the humanitarian appeal. However, the Immigration and Customs Enforcement (ICE) does not have jurisdiction over your incarceration.

It is our understanding that you are under the jurisdiction of the United States Marshals Service. Upon your transfer to ICE custody, removal proceedings will begin. To better assist you, we have determined that you should contact your attorney of record who has better knowledge of your specific case file. He or she will have a better understanding of your case history and be equipped to help you. The details included in this letter are provided for informational purposes only.

Sincerely,

A handwritten signature in black ink, appearing to read "James A. Kuiken".

James A. Kuiken
Acting Assistant Director
Office of Detention and Removal

From; Alberto Trapaga #m82797
30 Administration rd.
Bridgewater, Ma. 02324

To; Freedom of Information Officer,
Immigration/Naturalization services
JFK Federal Building
Government Center
Boston Ma. 02203

RE: FREEDOM OF INFORMATION ACT REQUEST

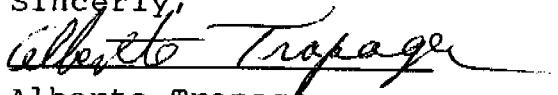
I would like to respectfully request the proper documents
to file a Freedom of Information Act.

Please send the documents to me at the address listed above
at your earliest convience.

Thank you in advance for your time.

C/c File

Sincerely,


Alberto Trapaga

VISSAS

E

República de Cuba
Ministerio del Interior
Dirección de Inmigración y Extranjería

**INMIGRACIÓN - CUBA
ESTADO HABANERO - 4-5**

ROBERTO CHAVÍAS

MINISTRO DEL INTERIOR

El portador Roberto Chavías se encuentra en el ESTADO HABANERO en el exterior con autorización.

Esta autorización es válida por un periodo de 20 días a partir de su expedición.

Dada en 20 de Agosto a los 20 días del mes de Agosto del año 1960.

Roberto Chavías

Ministro de la Gobernación y Extranjería

Ministerio del Interior

PRORROGABLE CREDITOS... VERES
SEA NECESARIO HASTA QUE SE
PRODUZCA LA SALIDA DEL PAIS.

4

ES ACOMPAÑADO DE: APELLIDOS	NOMBRES	FECHA DE NACIMIENTO
SU CONYUGE		
SUS MENORES HIJOS:		

SON TODOS CIUDADANOS CUBANOS

FOTO ESPOSA	FOTO DE LOS HIJOS
-------------	-------------------

LA VALIDEZ DE ESTE PASAPORTE
SE RENUEVA HASTA EL _____

RENOVADO POR _____
AUTORIDAD _____
EN _____ LUGAR _____ EL _____ FECHA _____

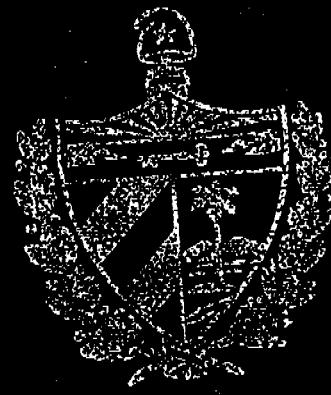
FIRMA _____

LA VALIDEZ DE ESTE PASAPORTE
SE RENUEVA HASTA EL _____

RENOVADO POR _____
AUTORIDAD _____
EN _____ LUGAR _____ EL _____ FECHA _____

FIRMA _____

REPUBLICA DE CUBA



PASAPORTE

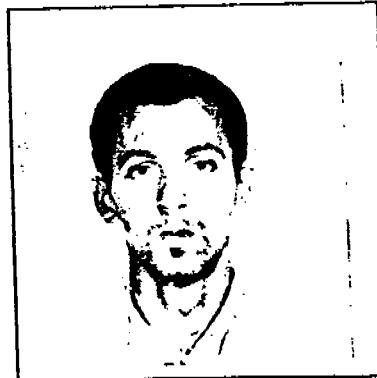
EXPEDIENTE NO. 4964-5 / 80	PASAPORTE NO. 54276	
NOMBRES Y APELLIDOS Alberto Antonio Trapaga		
Pacheco		
LUGAR DE NACIMIENTO Camagüey - Cuba	FECHA DE NACIMIENTO 1 de Diciembre de 1954	
NOMBRE DEL PADRE Humberto	NOMBRE DE LA MADRE Paulina	
ESTADO CIVIL Soltero	PROFESION _____	
ESTATURA 5' 8"	COLOR DE LOS OJOS Pardo	SEÑALES PARTICULARES VISIBLES Tatuajes

FIRMA DEL TITULAR

EXPEDIDO POR Ju de Trabajos Ext
AUTORIDAD

EN Ciudad Habana
LUGAR

20 de Abril de 1984
FECHA



FIRMA DEL FUNCIONARIO

3

18. Occupation	19. Waivers
20. INS File <i>A - 24 792227</i>	21. INS FCO
22. Petition Number	23. Program Number <i>BSR#03846-131</i>
24. <input type="checkbox"/> Bond	25. <input type="checkbox"/> Prospective Student
26. Itinerary/Comments <i>EMPLOYMENT AUTHORIZED THRU 2/26/92</i> <i>PURSUANT TO 274a 12(c)(11).</i> <i>NOT VALID FOR BENEFITS WHERE PROHIBITED BY</i> <i>FEDERAL, STATE OR LOCAL LAWS. LOS ANGELES</i> <i>"PRIOR WRITTEN AUTHORIZATION IS REQUIRED FOR</i> <i>TRAVEL OUTSIDE OF THE NEW YORK CITY DISTRICT".</i>	
27. TWOV Ticket Number <hr/>	

Admission Number

037329674 02

I
Immigration and
Naturalization Service

I-94

Arrival Record

ACLU PURSUANT TO SEC. 212(d) (3),
 OF THE I & IN ACT TO:
February 26 1992
 PURPOSE: Muriel Cuban Parolee
Sec 212 F-12 (3)(1)
copy (los) 2/26/91 MR
 (Post) (Date) (Officer)

1. Family Name <u>Trapaga - Pachecos</u>	2. First (Given) Name <u>Alberto</u>	3. Birth Date (Day Mo Yr) <u>12 01 54</u>
4. Country of Citizenship <u>Cuba</u>	5. Sex (Male or Female) <u>Male</u>	7. Airline and Flight Number
6. Passport Number <u>A24 792 227</u>	8. Country Where You Live	9. City Where You Boarded
10. City Where Visa Was Issued <u>Nyando, Cabero</u>	11. Date Issued (Day Mo Yr)	
12. Address While in the United States (Number and Street) <u>137 Hawthorne Ave, #1</u>		
13. City and State <u>Yonkers, NY 10701</u>		

FEDERAL DEFENDER OFFICE
DISTRICT OF MASSACHUSETTS
408 ATLANTIC AVENUE, 3RD FLOOR
BOSTON, MASSACHUSETTS 02110

TELEPHONE: 617-223-8061
(FAX) 617-223-8080

July 15, 2004

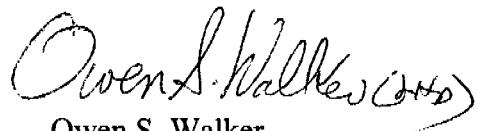
Mr. Alberto Trapaga
30 Administration Road
Bridgewater, MA 02324

Dear Mr. Trapaga:

Thank you for your letter.

This office handles only criminal cases brought in the United States District Court against people charged with crimes. We, therefore, cannot help you.

Sincerely,



Owen S. Walker

OSW:lhs

ALLISON, ANGIER & BARTMON LLP

COUNSELORS AT LAW

69 SOUTH PLEASANT STREET, SUITE 201
AMHERST, MASSACHUSETTS 01002

TELEPHONE: (413) 253-9700
TELECOPIER: (413) 256-0170

FREDERIC G. BARTMON
fgb@aab-law.com
DAVID A. ANGIER
daa@aab-law.com
DONALD J. ALLISON
dja@aab-law.com
LINDA L. PISANO
llp@aab-law.com

May 24, 2004

Alberto Trappaga
30 Administration Road
Bridgewater, MA 02324-3230

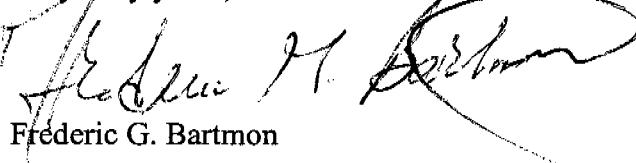
Re: Commonwealth v. Trappaga, Docket No. 03-435

Dear Mr. Trappaga:

As you are aware, I have been appointed by the Committee for Public Counsel Services to represent you in the above-captioned matter. I have already been in touch with your trial counsel, and am awaiting receipt of his file. I am also awaiting receipt of the transcripts, which may take some time. I have also entered my appearance in the trial court and will also do so in the Appeals Court, as soon as the matter is formally docketed.

I will be out to visit with you, as soon as I receive enough material to better understand your case. I will also arrange for the services of an interpreter. In the meantime, I am happy to hear from you, and look forward to hearing your thoughts about the issues that may be raised on this appeal.

Very truly yours,


Frederic G. Bartmon

FGB/mcr

Alberto Trappaga
30 Administration Rd
Bridgewater, MA 02324-3230

May 17, 2004

Mr. Stan Goldman, Director
Mental Health Litigation Unit
cc: Committee for Public Counsel Services
44 Bromfield Street
Boston, Ma. 02108

RE: Trappaga v. Commonwealth
SDP Appeal/Essex
Docket No: 03-435

Mr. Goldman

I am writing this letter, concerning the Appointment of Appellate Counsel on my case. I have been appointed an Attorney on my pending SDP Appeal, and the Attorney is from Hampshire County.

This does not make sense to me, being I am confined in the Massachusetts Treatment Center, in Bridgewater, MA., which is in Plymouth County, my case is out of the Essex County Courthouse, which is in Salem, MA.

I am not questioning the abilities of Mr. Frederic Bartmon, Esq., for he may be an excellant attorney, I am questioning the distance that he will have to travel, and the fact that that traveling will effect the representation. Further, he is in a calling zone, which will be long distant, in rates, thus effecting the amount of calls I will be able to make, to discuss my case.

The final issue, which is of great importance, is the fact that I speak fluent Spanish, as I am a Cuban National. Every counsel that I have been appointed, to represent me, has NOT SPOKEN SPANISH, which I believe effects the ability for me to communicate with counsel, and thus effects the representation.

I am now asking, that your office please reconsider the appointment of Mr. Frederic Bartmon, Esq., and please appoint another attorney, one that is nearer to the Plymouth and Essex Counties, and who speaks Spanish.

I thank you for your time and assistance in this matter, I remain:

Respectfully,

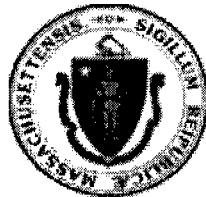
Alberto Trappaga
30 Administration Rd
Bridgewater, MA 02324-3230

xc: Mr. Frederic Bartmon, Esq.
file

Commonwealth of Massachusetts
Committee for Public Counsel Services
MENTAL HEALTH LITIGATION UNIT

STAN GOLDMAN
Director
sgoldman@publiccounsel.net

44 Bromfield Street, Boston, MA 02108
Telephone: (617) 482-6212 *** Facsimile: (617) 988-8489
www.mass.gov/cpcs/mhp



May 18, 2004

Alberto Trappaga
30 Administration Road
Bridgewater, MA 02324

RE: SDP Appellate Attorney

Dear Mr. Trappaga:

In response to your letter dated May 17, 2004, we have appointed an attorney who is certified to handle SDP Appeals; the fact that his office is not close to Bridgewater has no bearing on his ability to represent you in this appeal.

We have a limited number of attorneys who are certified to do SDP Appeals, and their offices are spread out over Massachusetts; all the appeals are heard at the Appeals Court in Boston, so all appellate attorneys travel into Boston no matter where their offices are located, or where the case originated.

The Committee for Public Counsel Services does not require the attorneys to speak Spanish as part of their certification, as you may know from your experience with your previous attorneys not speaking Spanish.

Please keep in mind that you have the right to an attorney, but not the attorney of your choice. We have appointed an attorney who is certified in SDP Appeals, and he will be representing you in this appeal, unless you find a Spanish speaking attorney in Plymouth County and hire him/her to represent you on a private basis.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa Ferrari".

Lisa Ferrari, Coordinator
Mental Health Litigation Unit

Cc: Frederic Bartmon, Esq.

Alberto Trappaga
30 Administration Rd
Bridgewater, MA. 02324-3230

Mr. Frederic Bartmon, Esq
Attorney at Law
69 So. Pleasant Street
Amherst, MA. 01002

Mr. Bartmon;

Please find enclosed, paperwork regarding my Deportation Status. I am respectfully requesting, that you please draw up all necessary paperwork, forms and documents, to bring me before the Immigration and Naturalization Services Courts, United States Federal Courts, so that I may be deported back to my Native Country of Cuba.

As I understood the Courts and Attorney's, once I had wrapped up all of my prison time, I would be brought before the Federal Court for Deportation Hearings. I wish to go to Federal Court, so that I may have my deportation hearings, and I may go back to Cuba, as soon as reasonably possible.

I have been unable to call your offices, due to the fact that you have a collect call block on the telephone, thus we are unable to discuss these matters, and I am unable to get them resolved. My understanding, I was not supposed to be committed, I was supposed to be being deported. I trust that this matter will be addressed, forthwith. Please send me copies of the documents that you file in Federal Court, for my records. I remain.

Sincerely

Alberto Trappaga
30 Administration Rd
Bridgewater, MA. 02324-3230

Date:

xc: file